

ESTTA Tracking number: **ESTTA436479**

Filing date: **10/18/2011**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92054481
Party	Defendant India Macatee
Correspondence Address	INDIA MACATEE 8712 SUNSET PLAZA TERRACE LOS ANGELES, CA 90069 UNITED STATES
Submission	Answer
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Date	10/18/2011
Attachments	ANSWER TO PETITION FOR CANCELLATION.pdf ( 3 pages )(35871 bytes )

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10  
11 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
12 TRADEMARK TRIAL AND APPEALS BOARD  
13

14 SONY PICTURES TELEVISION, INC.

15 Petitioner

16 v.

17 INDIA MACATEE

18 Respondent

Cancellation No. 92054481

ANSWER TO PETITION FOR  
CANCELLATION

19 In re: Trademark Registration Number 3,869,009  
20 Registered November 2, 2010  
21 reMODEL-Design Mark  
22 India Macatee

23 Respondent INDIA ALLEN f/k/a INDIA MACATEE, a United States  
24 citizen, answers the Petition for Cancellation of Registration as  
25 follows:

26 1. Respondent has no knowledge or belief regarding this  
27 allegation, and, on that basis, denies it.

28 2. Respondent, now known as INDIA ALLEN, now has her  
principal place of residence at 8712 Sunset Plaza Terrace, Los

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CANCELLATION

1 Angeles, CA 90069. Respondent admits that she is a United States  
2 citizen.

3 3. Denied.

4 4. Admitted.

5 5. Denied

6 6. Denied.

7 7. Denied.

8  
9 AFFIRMATIVE DEFENSES

10 Respondent developed the idea for the reMODEL reality  
11 television series after having her third child. As a former  
12 model, Respondent wanted to go back to work as a model but  
13 couldn't because of her weight and because of having "let herself  
14 go"—she wanted to reMODEL herself. Respondent sat down and  
15 sketched out an idea for a television show about reMODELing  
16 former models.

17 Commencing on January 1, 2007 and continuing until the  
18 broadcast of the television series on October 15, 2011,  
19 Respondent did the following things to develop and produce the  
20 television series:

21 a. Entered into agreements with several sponsors whose  
22 products are featured in the television series;

23 b. Advertised the upcoming series in various "markets" on  
24 Time Warner cable from July 2009 through October 2009;

25 c. Advertised the series in several magazines, including  
26 "New Beauty Magazine" Winter and Spring 2011 issues, with a  
27 national circulation of 1,000,000 copies for each of the two  
28 issues;

1 d. Placed video promotions for the series on various  
2 websites for the public to view, including a website that has  
3 been in continuous operation since 2009 which has show promos,  
4 information on the television series, and sponsorship sales  
5 information;

6 e. Hired cast and crew to produce sixteen (16) episodes of  
7 the series, all of which episodes have been completed and will be  
8 broadcast;

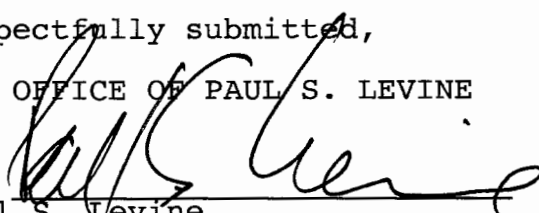
9 f. Entered into an agreement with the cable television  
10 channel known as TLC to broadcast episodes of the series, the  
11 first of which was broadcast on October 15, 2011.

12 Thus, Respondent obtained trademark rights in the series  
13 even before its first episode was broadcast (on October 15, 2011)  
14 because the totality of the circumstances (her actions as  
15 outlined above), taken together, established her right to  
16 exclusive use of the trademark. Her use of the trademark was made  
17 in a way sufficiently public to identify or distinguish the  
18 television series in an appropriate segment of the public mind as  
19 Respondent's television series.

20  
21 Respectfully submitted,

22 LAW OFFICE OF PAUL S. LEVINE

DATED: October 18, 2011

23 By:   
24 Paul S. Levine  
25 Attorney for Respondent